Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	**)**	
	)	
City of Lago Vista, Texas	**)**	File No. 0008754727
	)	
Request for Waiver of Section 90.242(b)(4)(iv)	**)**	
of the Commission's Rules	**)**	

ORDER

Adopted: January 3, 2020, 2020   Released: January 3, 2020

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I.   INTRODUCTION

1.   On August 6, 2019, the City of Lago Vista, Texas (Lago Vista or the City) filed an application and waiver request to modify its Travelers' Information Station (TIS) under call sign WQUY758 to expand its service area so that it may provide a 2 mV/m signal at 2.5 kilometers from the TIS transmitter site.[1] A waiver is required because section 90.242(b)(4)(iv) of the Commission's rules limits TIS station coverage to 2 mV/m at 1.5 kilometers from the TIS transmitter site.[2]

II.   BACKGROUND

2.   Lago Vista cites two incidents that illustrate the need for its requested coverage expansion. The City encountered near-hurricane strength winds from Hurricane Harvey in 2017 and later experienced a catastrophic flood in 2017 when Lake Travis crested 30 feet above flood stage, engulfing homes and stranding residents.[3] In both these incidents, coverage from the City's TIS did not adequately extend to the affected areas. The City also characterizes itself as a wooded community where motorists not served by the current TIS facility need information on road conditions and fire hazards.[4] Lago Vista states that improving coverage by operating its TIS at the parameters proposed in its waiver request is preferable to installing additional TIS facilities, i.e., "the cost to the community to install synchronous repeater stations to enlarge the signal is huge compared to merely using all 10 watts of the present system's power."[5]

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[1] *See* File No. 0008754727 and accompanying Waiver Request of City of Lago Vista, TX (filed August 6, 2019 amended October 7, 2019) (Waiver Justification). Lago Vista's TIS operates on frequency 1670 kilohertz in the AM radio band.

[2] *See* 90.242(b)(4)(iv) ("The field strength of the emission on the operating frequency shall not exceed 2 mV/m when measured with a standard field strength meter at a distance of 1.50 km (0.93 miles) from the transmitting antenna system.")

[3] Waiver Justification.

[4] *Id.*

[5] *Id.* Lago Vista will achieve its desired coverage by increasing the transmitter power output of its TIS facility to 10 watts, the maximum permitted by 47 CFR § 90.242(b)(4)(iii).

3.   In an engineering study, Lago Vista demonstrates that its proposal comports with the TIS spacing rule[6] relative to the closest co-channel station (XEFCR, 1670 kilohertz, Reynosa, Mexico) and the closest adjacent channel station (KRZI, 1660 kilohertz, Waco, Texas).[7]

4.   Addressing the Commission's waiver criteria,[8] the City contends that requiring Lago Vista to conform to section 90.242(b)(4)(iv) – whose purpose is to protect broadcasters from TIS interference – would not be served if applied to the instant matter because Lago Vista has demonstrated the lack of interference from its proposed TIS facility. The City also submits that strict adherence to section 90.242(b)(4)(iv) would have the unintended effect of requiring Lago Vista to install additional expensive TIS facilities to realize expanded coverage.[9] Section 90.242(b)(4)(iv) was not intended, the City argues, to impose a cost burden on agencies responsible for informing the travelling public[10]

III.   DISCUSSION

5.   Section 1.925(b)(3) of the Commission's rules provides that: "the Commission may grant a request for waiver if it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."[11] An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.[12]

6.   Based on the record before us we find that Lago Vista has satisfied the first prong of the Commission's waiver standard. Lago Vista has demonstrated the need to expand its coverage to relay road conditions and other hazards to its community. Additionally, because the separation of the TIS from the nearest co-channel and adjacent-channel stations substantially exceeds that required by the rules, we are confident that grant of the waiver will not result in harmful interference. Accordingly, we find that the requested waiver is in the public interest.

IV.   ORDERING CLAUSES

7.   Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.925 of the Commission's rules, 47 CFR § 1.925, that the Request for Waiver of the City of Lago Vista, Texas, filed on August 6, 2019, IS GRANTED.

8.   IT IS FURTHER ORDERED, that application File No. 0008754727, filed by the City of Lago Vista, Texas SHALL BE PROCESSED in accordance with this Order and the Commission's rules.

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[6] 47 CFR § 90.242(a)(2). *See* Statement of Doug Vernier, October 7, 2019 appended to the Lago Vista application and waiver request (Engineering Statement).

[7] *See* Engineering Statement, Attachments 1-2.

[8] *See* 47 CFR § 1.925.

[9] Waiver Justification.

[10] *Id.*

[11] 47 CFR § 1.925(b)(3).

[12] *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969) (*WAIT Radio*), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (*citing Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

9. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau